

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SHAWN RILEY,

Plaintiff,

v.

Case No. 20-cv-1252-pp

JOLINDA WATERMAN
and SANDRA MCARDLE,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO USE RELEASE ACCOUNT TO
PAY APPELLATE FEES AND COSTS (DKT. NO. 84)**

On April 26, 2023, the court granted the plaintiff leave to proceed on appeal without prepaying the filing fee and ordered him to pay an initial partial filing fee of \$116.61 to the clerk's office by the end of the day on May 26, 2023. Dkt. No. 83. On May 5, 2023, the court received from the plaintiff a motion to use the funds in his release account to pay his appeal costs, including the initial partial filing fee and photocopy costs. Dkt. No. 84. The plaintiff explains that he has \$2,745.57 in his release account. *Id.* at ¶6. He estimates his total costs at \$550.80, and he asks the court to order the business office at his institution to withdraw that amount from his release account. *Id.* at ¶¶10, 11.

It is the plaintiff's responsibility to fund his own litigation despite proceeding without a lawyer. *See Lindell v. McCallum*, 352 F.3d 1107, 1111 (7th Cir. 2003); *Nail v. Gutierrez*, No. 1:06-cv-292, 2007 WL 4255535, at *1 (N.D. Ind. Nov. 30, 2007). The term "prisoner's account" used in 28 U.S.C. §1915 "encompasses both [the prisoner's] release account and his general

account.” Spence v. McCaughtry, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). The release account “is a restricted account maintained by the Wisconsin Department of Corrections to be used upon the prisoner’s release from custody upon completion of his sentence.” Wilson v. Anderson, No. 14-cv-798, 2014 WL 3671878, at *3 (E.D. Wis. July 23, 2014) (citing Wis. Admin. Code §DOC 309.466). Federal courts in this state have permitted incarcerated persons to use their release accounts to pay their initial partial filing fee. E.g. Doty v. Doyle, 182 F. Supp. 2d 750, 751 (E.D. Wis. 2002); Spence, 46 F. Supp. 2d at 862–63. But absent unusual circumstances, this court lacks the authority to order (or allow) an incarcerated plaintiff to “tap into his release account to pay current (or future) litigation costs.” McCalla v. Thompson, No. 18-cv-1895-JPS, 2019 WL 3220551, at *2 (E.D. Wis. July 17, 2019) (citing Wilson v. Anderson, No. 14-cv-0798, 2014 WL 3671878, at *3 (E.D. Wis. July 23, 2014)); see also Artis v. Meisner, No. 12-cv-589-WMC, 2015 WL 5749785, at *6 (W.D. Wis. Sept. 30, 2015) (“[T]his court has not found any case in which a federal court permitted a prisoner to pay litigation costs from a release account under the federal PLRA.” (emphasis omitted)).

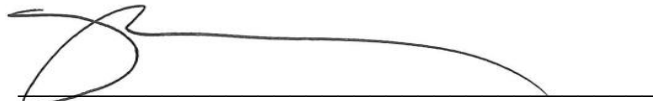
The plaintiff has not described any unusual circumstance that would justify the court allowing him to use the funds in his release account to cover his litigation costs. He says only that he has the money in his release account, and he expects to have costs for photocopies needed for his appeal. But the trust account statement that the plaintiff recently filed shows that as of March 9, 2023, he had over \$400 in his regular account that he could use to pay the

\$116.61 initial partial filing fee and other costs he incurs in his appeal. And, on May 23, 2023, the court received the initial partial filing fee. The plaintiff may ask the state for a legal loan to cover his remaining costs under Wis. Admin. Code §DOC 309.51(1). But securing and repaying that loan is “a matter strictly between him and Wisconsin, and not any business of the federal courts.” See Lindell, 352 F.3d at 1111 (citing Luedtke v. Bertrand, 32 F. Supp. 2d 1074, 1076 (E.D. Wis. 1999)). The court will not order the prison to allow the plaintiff to access his release account to cover his appeal fees and costs.

The court **DENIES** the plaintiff’s motion to allow him to use his release account to pay appellate fees and costs. Dkt. No. 84.

Dated in Milwaukee, Wisconsin this 16th day of June, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge